

Montana Association of Counties Financial Impact Analysis
Proposed Constitutional Initiative to Limit Property Taxes to a Growth Rate of
3.0% Annually for residential properties.

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In the mid-1980's the Montana Voters passed Initiative-105. This initiative imposed a property tax limitation upon all taxing jurisdictions. This initiative was codified by the Montana Legislature in Title 15, Chapter 10, Part 4 M.C.A. Section 15-10-402 M.C.A. limits the amount of taxes levied on property by any taxing jurisdiction to the amount levied in 1996. Section 15-10-412 M.C.A. established certain exceptions to this limit and was subsequently repealed by the 2001 Legislature and re-codified as 15-10-420 M.C.A.

In its current form, Section 15-10-420 M.C.A. provides today's limitation on property taxation at the amount levied in the previous year plus one-half of the previous three-year average rate of inflation. This section establishes how the current limitation is calculated and also provides for certain exemptions from this limit as determined by the Montana Legislature for very limited purposes as set forth in subsection (5): school levies and a portion of a taxing jurisdiction's contributions for employee benefits (group health insurance), and in subsection (9): payment of a judgment against a taxing jurisdiction, repayment of taxes paid under protest, two-mill levy to fund the costs of mitigation of emergencies and disasters under certain circumstances and a levy to support the work of a voter approved study of the taxing jurisdiction's form and plan of government.

Through the enactment of these exceptions, the Montana Legislature has recognized that there are certain financial obligations that are beyond a taxing jurisdiction's ability to control, thus have provided a mechanism to pay these obligations. The enactment of this proposed Constitutional Initiative to limit the growth of taxes levied against owner-occupied residences would effectively eliminate a taxing jurisdiction's ability to meet these financial obligations over which it has no control through permissive taxation across the tax base. Taxing jurisdictions would be forced to shift this tax burden to all classes of property to which the limit does not apply. In the alternative, taxing jurisdictions would be faced with reductions or elimination of services or in the most extreme of situations could face bankruptcy.

By limiting the increase in taxation against certain defined properties, a shift in taxation to all other class of property would occur in order fund the normal operations of taxing jurisdictions. We are unclear how this proposed initiative would be implemented in light of Article VIII, Section 4 of the Montana Constitution which requires local jurisdictions to use the assessed value of property as established by the state. If taxing jurisdictions are required to use the assessed value provided by the state and all residential property remains as

Class 4 property, it would appear that those jurisdictions would be forced to calculate the number of mills to be assessed on those properties protected under the proposed initiative separate from all other properties. Counties currently have no means or any ability establish segregated taxation. It would appear that in order to implement this proposal, the state would have to establish a separate class of property for owner-occupied residences protected under the proposed initiative in order to comply with Article VIII, Section 5 (1)(c) of the Montana Constitution which authorizes the legislature to exempt any class of property because the proposed limitation would constitute an exemption from taxation.

If we examine the long-term potential impacts we find that applying the growth rate of 3.0% annually over the next 50 years for each \$1,000 of revenue in 2009 would yield an increase of slightly more than \$2000. In the same 50 year period, the cost of providing service would be expected to increase over five-fold to in excess of \$5,000. We clearly understand that the proposed initiative does not limit a taxing jurisdiction's ability to shift the tax burden to classes of property that are not protected under the proposal. This demonstrates the effects of that shift.

The exercises to make comparisons between revenue increases allowed in the future with the increased cost of providing goods and services in the future and to compare the revenue increases for the past 50 fifty years with the increased cost of providing goods and services over the same period are not intended to in any way make an argument that taxing jurisdictions would be forced to reduce services but rather to demonstrate that a shift in property taxation to classes of property not protected under the proposal would in all likelihood take place in order to maintain the same level of services.